

SENATE BILL No. 240

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-16.

Synopsis: Interrogation of police officers and firefighters. Specifies provisions concerning interrogation of a police officer or firefighter who is the subject of a formal complaint or an internal investigation.

Effective: July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 240

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-16 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]:

4 **Chapter 16. Interrogation of Law Enforcement Officers and**
5 **Firefighters**

6 **Sec. 1. As used in this chapter, "internal investigation" means**
7 **an investigation by an employer that is:**

8 (1) **conducted to determine whether a public safety officer**
9 **violated:**

10 **(A) a rule of the employer; or**

11 **(B) a criminal or civil law; and**

12 **(2) based on allegations or information provided to the**
13 **employer in a formal complaint or from another source.**

14 **Sec. 2. As used in this chapter, "investigator" means a person**
15 **who is designated by an employer to investigate:**

16 **(1) a formal complaint filed against a public safety officer; or**

17 **(2) an allegation or information of misconduct concerning a**

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public safety officer.

Sec. 3. (a) As used in this chapter, "law enforcement officer" means:

- (1) a city or town police officer;
- (2) a town marshal or deputy town marshal;
- (3) a county police officer;
- (4) a constable's deputy;
- (5) a state police officer;
- (6) a conservation officer of the department of natural resources;
- (7) an enforcement officer of the alcohol and tobacco commission; or
- (8) a state university police officer.

(b) The term does not include a special officer or a reserve officer.

Sec. 4. As used in this chapter, "public safety officer" means:

- (1) a law enforcement officer;
- (2) a full-time, fully paid firefighter; or
- (3) a firefighter employed by the fire department of a state university.

Sec. 5. An employer may require a public safety officer employed by the employer to appear before an investigator for interrogation only after:

- (1) a formal complaint is filed against the public safety officer or the employer has initiated an internal investigation against the public safety officer; and
- (2) the employer has notified the public safety officer of the formal complaint or internal investigation.

Sec. 6. A formal complaint must:

- (1) be in writing;
- (2) be signed and sworn to by the person who makes the allegation against the public safety officer;
- (3) set forth a concise statement of the facts of the occurrence on which the formal complaint is based, including the:
 - (A) date;
 - (B) time; and
 - (C) location;
 of the occurrence; and
- (4) include any other information required by the employer.

Sec. 7. At a reasonable time before an interrogation of a public safety officer, an employer shall give the public safety officer the following:

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(1) A copy of the formal complaint, if a formal complaint has been filed against the public safety officer.

(2) Any statements by persons who accuse the public safety officer of conduct or activities that form the basis of the formal complaint or internal investigation.

Sec. 8. Before an interrogation of a public safety officer may begin, an employer must inform the public safety officer both orally and in writing that:

(1) the public safety officer may refuse to be interrogated, but refusal may subject the public safety officer to disciplinary proceedings; and

(2) if the public safety officer is ordered to respond to the interrogation:

(A) the public safety officer may respond to the interrogation; and

(B) any statements made by the public safety officer during the interrogation may not be used against the public safety officer in a subsequent criminal proceeding.

Sec. 9. The interrogation of a public safety officer must be conducted at:

(1) the employer's office; or

(2) a location agreed upon by the public safety officer and the investigator.

Sec. 10. Except as provided in section 11 of this chapter, an interrogation of a public safety officer must be conducted:

(1) when the public safety officer is scheduled for duty; or

(2) at a time agreed upon by the public safety officer and the investigator.

Sec. 11. If the interrogation of a public safety officer is based on an allegation of criminal conduct, the interrogation may be conducted at any time.

Sec. 12. If the interrogation of a public safety officer is based on an allegation of criminal conduct, the investigator conducting the interrogation shall record the interrogation. On request of the public safety officer, the investigator shall:

(1) prepare a transcript of the recording; and

(2) provide the transcript to the public safety officer at no cost to the public safety officer.

Sec. 13. A public safety officer who is interrogated may record the interrogation.

Sec. 14. (a) Except as provided in subsection (b), a public safety officer may have:

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1 (1) an attorney; and
 2 (2) another representative, including a representative of the
 3 public safety officer's union;
 4 of the public safety officer's choice present during an interrogation
 5 of the public safety officer.

6 (b) If the public safety officer delays the interrogation for more
 7 than twenty-four (24) hours because of the unavailability of the
 8 public safety officer's attorney, union representative, or other
 9 representative, the public safety officer may be subject to
 10 disciplinary proceedings.

11 Sec. 15. An employer may not require a public safety officer to
 12 submit to either of the following tests to determine veracity or for
 13 any other purpose:

14 (1) A polygraph or voice stress examination.

15 (2) A psychological stress evaluation.

16 Sec. 16. If a public safety officer voluntarily consents to a test
 17 referred to in section 15 of this chapter, the results of the test may
 18 not be used against the public safety officer in a subsequent
 19 disciplinary proceeding.

20 Sec. 17. This chapter does not supersede the terms of a contract
 21 entered into before July 1, 2006.

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